

REMARKS

Response To Objections/Rejections

In the FINAL Office Action of Jun. 22, 2005, claims 22-23, 25, 27-28, and 31 were rejected under 35 U.S.C. §102(b) as being anticipated by Yaung et al (U.S. Patent No. 6,372,603). Claims 24, 26-27, 29, 30, 32-36 were rejected under 35 U.S.C. §103(a) as being obvious over Yaung in view of Rhode (U.S. Patent Publication No. 20020089004).

Applicant traverses the rejection for at least the reason that neither Yaung, Rhode, nor the combination discloses all the elements in each pending claim. Notwithstanding, claims 22 and 28-32 are amended in this request for continued examination.

Claims 33-37 are canceled without prejudice, waiver, or disclaimer. Applicant takes this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicant reserves the right to pursue the subject matter of these canceled claims in a continuing application, if applicant so chooses, and does not intend to dedicate any of the canceled subject matter to the public.

Response To Rejections of Claims 22 and 31

Claims 22 stands rejected under 35 U.S.C. §102(b) as allegedly anticipated by Yaung. Applicant respectfully traverses this rejection on the grounds that Yaung fails to teach or disclose at least one of the elements in the currently-amended claim 22.

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See e.g., In re*

Paulsen, 30 F.3d 1475, 31 USPQ 2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ 2d 1655 (Fed. Cir. 1990).

Yuang at least fails to disclose “a stop layer located at a bottom of the opening and at a top of the isolation region,” as claimed in claim 22. The stop layer that the Examiner referred to in Yuang is the layer 260 in Fig. 2C, which is an oxide lining and is only located at a bottom of the oxide material 290 as shown in Fig. 2D of Yuang. Furthermore, Yuang has no opening as claimed in claim 22. Therefore, the 102(b) rejection over Yuang should be withdrawn and claim 22 should be patentable over Yuang.

The other cited reference, Rhode, also fails to disclose the stop layer and the opening as claimed in claim 22. In order for a claim to be properly rejected under 35 U.S.C. §103, the teachings of the prior art reference must suggest all features of the claimed invention to one of ordinary skill in the art. *See, e.g., In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). Therefore, the combination of Yuang and Rhode cannot make claim 22 obvious and, therefore, claim 22 should be patentable over Yuang and Rhode.

Independent claim 31, is amended to have the same stop layer as that defined in claim 22, and for at least the same reason, claim 31 defines over the cited art of record.

Dependent Claims 23-30 and 32:

Dependent claims 23-30 and 32 are allowable for at least the reason that these claims depend from allowable independent claim 22 or 31. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Response To Provisional Double Patenting Rejection

In response to the provisional double patenting rejection, Applicant submits that the rejection should be withdrawn in view of the amendments made to the independent claims herein. Notwithstanding, Applicant will consider filing a terminal disclaimer upon receiving a Notice of Allowance in this matter.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this Amendment and Response to Restriction Requirement. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

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